

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

In re:

ALIJA EROVIC,

Case No.: 6:18-bk-00125-CCJ

Chapter: 7

Debtor.

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**U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE, SUCCESSOR IN INTEREST
TO BANK OF AMERICA, NATIONAL ASSOCIATION, AS TRUSTEE, SUCCESSOR
BY MERGER TO LASALLE BANK, NATIONAL ASSOCIATION, AS TRUSTEE FOR
MERRILL LYNCH FIRST FRANKLIN MORTGAGE LOAN TRUST, MORTGAGE
PASS-THROUGH CERTIFICATES, SERIES 2007-1'S,
BY NATIONSTAR MORTGAGE LLC D/B/A MR. COOPER,
MOTION FOR RELIEF FROM AUTOMATIC STAY TO
ENFORCE FINAL JUDGMENT OF FORECLOSURE**

NOTICE OF OPPORTUNITY TO OBJECT AND REQUEST FOR HEARING

Pursuant to Local Rule 2002-4, the Court will consider the relief requested in this paper without further notice or hearing unless a party in interest files a response within 21 days from the date set forth on the proof of service, plus an additional three days for service if any party was served by U.S. Mail.

If you object to the relief requested in this paper, you must file your response with the Clerk of the Court at 400 W. Washington Street, Suite 5100, Orlando, FL 32801 and serve a copy on the movant's attorney, McCalla Raymer Leibert Pierce, LLC, 110 S.E. 6th Street, Suite 2400, Ft. Lauderdale, FL 33301, and any other appropriate persons within the time allowed. If you file and serve a response within the time permitted, the Court may schedule and notify you of a hearing, or the Court may consider the response and may grant or deny the relief requested without a hearing.

If you do not file a response within the time permitted, the Court will consider that you do not oppose the relief requested in the paper, will proceed to consider the paper without further notice or hearing, and may grant the relief requested.

U.S. Bank National Association, As Trustee, Successor In Interest To Bank Of America, National Association, As Trustee, Successor By Merger To Lasalle Bank, National Association, As Trustee For Merrill Lynch First Franklin Mortgage Loan Trust, Mortgage Pass-Through Certificates, Series 2007-1 by Nationstar Mortgage LLC d/b/a Mr. Cooper, the servicing agent

(the “Secured Creditor”), its successors and/or assigns, as a secured creditor of the bankruptcy estate of Alija Erovic (the “Debtor”), seeks relief from the automatic stay pursuant to 11 U.S.C. § 362(d), and in support thereof, states as follows:

1. Debtor's Bankruptcy Case. On January 9, 2018, the Debtor filed the above-captioned Chapter 13 bankruptcy case. An order converting the case to Chapter 7 was entered July 23, 2018.

2. Jurisdiction. Jurisdiction of this matter is properly before this Court pursuant to 28 U.S.C. § 1334 and Rule 4001(a) of the Federal Rules of Bankruptcy Procedure.

3. Right to Foreclose. Attached are redacted copies of any documents that support the claim, such as promissory notes, purchase order, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements in support of right to seek a lift of the automatic stay and foreclose if necessary.

4. Collateral. Secured Creditor is entitled to enforce the Note and Mortgage, which are secured by the real property (the “Property”) located at 1898 Fallon Blvd NE, Palm Bay, Florida 32907 and further described as follows:

LOT 17 BLOCK 141 PORT MALABAR UNIT 6 ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 14 PAT PAGE 116-124 OF THE PUBLIC RECORDS OF BREVARD COUNTY FLORIDA

5. Secured Creditor's Claim. Secured Creditor is owed an outstanding principal balance of \$115,602.73, plus applicable interest, penalties, fees and costs, and has not received the payment due on January 1, 2012 and all subsequent payments due thereafter.

6. Foreclosure Proceedings. As a result of the Debtor's failure to make the monthly payments due under the note and mortgage, Secured Creditor commenced a foreclosure action against the Debtor in the case captioned U.S. Bank National Association As Trustee Successor In

Interest To Bank Of America National Association As Trustee Successor By Merger To Lasalle Bank National Association As Trustee For First Franklin Mortgage Loan Trust 2007-1 Mortgage Pass-Through Certificates, Series 2007-1 vs. Alija Erovc; Belka Erovc et. al., Case No. 2016-CA-050104, in the 18th Judicial Circuit, in and for Brevard County, Florida. On August 21, 2017, a Final Judgment of foreclosure was entered in the amount of \$206,590.98. A copy of the Final Judgment is attached hereto as **Exhibit A**. A copy of the Assignment of Bid is attached as **Exhibit B**.

7. Relief Requested. Secured Creditor requests the entry of an order modifying the automatic stay pursuant to 11 U.S.C. § 362(d) to permit Secured Creditor to enforce all of its in rem remedies against the Property pursuant to the Final Judgment. The requested relief should be granted for the following reasons:

- The Debtor has no equity in the Property, as evidenced by the Debtor's Schedule A/B, which lists the value of the Property at \$90,000.00. This amount is less than the outstanding amount due to Secured Creditor pursuant to the Final Judgment.
- The Property **has not been** claimed exempt by the Debtor.
- Since the instant case is a Chapter 7 bankruptcy, the Property is not necessary to an effective reorganization;
- Interest continues to accrue; and
- Property taxes continue to accrue.

8. Request for Attorney's Fees and Costs. Secured Creditor requests attorney's fees in the amount of \$350.00 and costs of \$181.00, as a result of filing the instant motion.

9. Request for Hearing in 30 Days. In the event a timely objection is filed in response to the instant motion, Secured Creditor requests that a hearing be held within thirty (30) days.

10. Request for Waiver of 14-Day Stay of Relief. Secured Creditor requests that the

14 day stay, pursuant to Fed. R. Bankr. P. 4001(a)(3), be waived.

Wherefore, Secured Creditor requests the entry of an order modifying the automatic stay and for such other and further relief as the Court deems just and proper.

McCalla Raymer Leibert Pierce, LLC

By: /s/ **Melbalynn Fisher**

Melbalynn Fisher

Florida Bar No. 107698

Attorney for Creditor

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 14, 2018, a true and correct copy of the foregoing was served by U.S. Mail, First Class to Alija Erovic, 1898 Fallon Blvd. NE, Palm Bay, FL 32907; and those parties receiving CM/ECF service

- Michael Faro mfarofarolaw.com, michaelfaroeefmail@gmail.com; faromr68510@notify.bestcase.com
- Arvind Mahendru amtrustee@gmail.com, amahendru@ecf.epiqsystems.com
- Austin M Noel austin.noel@mccalla.com, flbkecf@mccalla.com
- Ashley Prager Popowitz Ashley.popowitz@mrpllc.com, FLBKECF@mrpllc.com
- United States Trustee - ORL7/13 USTP.Region21.OR.ECF@usdoj.gov
- Laurie K Weatherford ecf@c13orl.com

By: /s/ Melbalynn Fisher
Melbalynn Fisher